

REMARKS

Summary Of Office Action

Claims 1-87 are pending in this application. Claims 10-30, 40, 48-65, 78-80, 82, and 87 have been withdrawn pursuant to a species election.

The Examiner finally rejected claims 1-5, 7, 41-47, 72-77, 81, and 83-86 under 35 U.S.C. §102(b) as being anticipated by Standerwick et al. U.S. Patent No. 3,072,118 (hereinafter "Standerwick"). Dependent claims 6, 31-34, and 66-69 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick. Dependent claims 8, 9, and 37-39 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick in view of Letendart et al. U.S. Patent No. 6,432,109 (hereinafter "Letendart"), and dependent claims 35, 36, 70, and 71 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick in view of Bittner, Jr. U.S. Patent No. 2,055,024 (hereinafter "Bittner").

Request For Withdrawal Of Finality Of Office Action

The Examiner said that "[a]pplicant's amendment necessitated the new ground(s) of rejection" and that, "[a]ccordingly, THIS ACTION IS MADE FINAL."

Pursuant to MPEP § 706.07(a), "any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant ... in spite of the fact that other claims may have been amended to require newly cited art." (emphasis added).

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The Examiner rejected independent claim 72 in the April 20, 2005 Office Action as being anticipated by Russell et al. U.S. Patent No. 5,443,464. In this September 29, 2005 Office Action, the Examiner rejected claim 72 as being anticipated by newly cited Standerwick.

Applicant never amended independent claim 72.

Accordingly, applicant respectfully requests that the finality of this Office Action be withdrawn.

Summary Of Applicant's Reply

Applicant has proposed amending claim 1 to more clearly define the invention. No new matter has been added.

Reconsideration of this application in view of the proposed amendment and following remarks is respectfully requested.

Rejections Of Claims Under 35 U.S.C. § 102(b)

Claims 1-5, 7, 41-47, 72-77, 81, and 83-86 were rejected under 35 U.S.C. §102(b) as being anticipated by Standerwick. The Examiner said that Standerwick discloses a reduction platform (e.g., curved bar 2 in Standerwick's FIG. 1), receiving holes 28, a fragment manipulator (e.g., mounting pin 8) having a bone engaging end 33, and a nut (e.g., thumb nut 14) threadably and adjustably engaging the manipulator above the platform to draw the manipulator upward.

These rejections are respectfully traversed.

Independent Claim 72

Independent method claim 72 recites the following limitations:

“locating at least a portion of a bone to be reduced;

...

inserting a fragment manipulator through the reduction platform and into the located bone portion.” (Emphasis added.)

Standerwick does not disclose these limitations. In contrast, Standerwick discloses that “in case of skull damage, ... the surgeon may so locate the mounting pins as to avoid interference with damaged ... skull areas” (Standerwick, column 5, lines 45-48; emphasis added). Thus, Standerwick’s mounting pins, which the Examiner equated with applicant’s fragment manipulator, are not intended to engage damaged skull areas (i.e., portions of a bone to be reduced) as is applicant’s fragment manipulator.

Claim 72 further recites the following limitations:

“threading a nut onto the fragment manipulator until the nut contacts the reduction platform; and

continuing to rotate the nut so that the fragment manipulator is drawn up through the nut thereby moving the located bone portion attached to the fragment manipulator.” (Emphasis added.)

Standerwick also does not disclose these limitations. In particular, Standerwick discloses nothing about rotating any of the mounting-pin nuts to draw a mounting pin upward.

Moreover, each of pins 8, 9, 10, 11, and 12 shown in Standerwick’s FIG. 1 is connected to head frame 1 with a threaded nut on each side of head frame 1. For example, pin 8 is connected with nuts 13 and 14 on each side of curved bar 3 of frame 1. Accordingly, neither nut 13 nor 14 can be rotated such that pin 8 is drawn up through that nut. Rotation of either nut in one direction moves (i.e., tightens) that nut against the frame (because of the other nut on the other side of the frame), and rotation of either nut in the opposite direction moves (i.e., loosens) that nut away from the frame (again, because of the other nut on the other side of the frame). In

no case is the pin drawn up through a nut unless the pin itself is rotating -- and if the pin itself is rotating so that the pin is drawn upward -- it will in all likelihood not move the bone portion (as required by claim 72), but will instead unscrew itself from the bone portion.

Thus, Standerwick does not disclose or suggest the method defined in applicant's claim 72.

Independent Claim 41

Independent claim 41 defines a fragment manipulator having a threaded section configured to allow translation of the manipulator through a receiving hole of a reduction platform to reduce a patient's bone.

Standerwick does not disclose or suggest such a fragment manipulator connected to head frame 1. Standerwick discloses that one of its objectives is to "provide an element which may be fixed with greater rigidity to the skull." In particular, Standerwick discloses that to "affix the head frame in place, it is prepared by inserting each of pins 8, 9, 10, 11, and 12" into the skull. Note that pins 8, 9, 11, and 12 are described as merely "mounting pins" and pin 10 is described as merely a "stabilizing pin" (Standerwick, column 3, lines 7-8).

No where does Standerwick disclose or suggest that any of pins 8-12 are intended to translate through a slot of head frame 1 to reduce a patient's bone.

Accordingly, Standerwick does not disclose or suggest the fracture reduction assembly defined in applicant's claim 41.

Independent Claim 1

Independent claim 1, amended as proposed, defines a fragment manipulator having a bone engaging end configured to be inserted into a bone fragment of a bone fracture

region and to pull that bone fragment in a direction substantially opposite the direction in which the bone engaging end was inserted into the bone fragment.

As discussed above, Standerwick does not disclose that any of its mounting or stabilizing pins is inserted into a bone fracture region. To the contrary, Standerwick teaches that its mounting or stabilizing pins can avoid damaged skull areas.

As also discussed above, Standerwick does not disclose that any of its mounting or stabilizing pins are configured to pull a bone fragment in a direction substantially opposite the direction in which the pins were inserted into the bone fragment.

Thus, Standerwick does not disclose or suggest the fracture reduction assembly defined in applicant's claim 1.

* * *

In sum, Standerwick's head frame does not meet the limitations of either claim 1, 41, or 72. Therefore, independent claims 1, 41, and 72 are not anticipated by Standerwick and should be allowable.

And for at least the above reasons, dependent claims 2-5, 7, 42-47, 73-77, 81, and 83-86, which each depend either directly or indirectly from independent claim 1, 41, or 72, should also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

Accordingly, applicant respectfully requests that the rejections of claims 1-5, 7, 41-47, 72-77, 81, and 83-86 under 35 U.S.C. §102(b) be withdrawn.

Rejections Of Dependent Claims Under 35 U.S.C. § 103(a)

Dependent claims 6, 31-34, and 66-69 were rejected under 35 U.S.C. §103(a) as being obvious from Standerwick; dependent claims 8, 9, and 37-39 were rejected under 35 U.S.C. §103(a) as being obvious from the combination of Standerwick and Letendart; and dependent claims 35, 36, 70, and 71 were rejected under 35 U.S.C. §103(a) as being obvious from the combination of Standerwick and Bittner.

These rejections are respectfully traversed.

For at least the reasons discussed above with respect to independent claims 1, 41, and 72, dependent claims 6, 8, 9, 31-39, and 66-71, which each depend directly or indirectly from one of those independent claims, are not obvious from Standerwick alone or in combination with Letendart or Bittner (i.e., dependent claims are allowable if their independent claim is allowable).

Accordingly, applicant respectfully requests that the rejections of claims 6, 8, 9, 31-39, and 66-71 under 35 U.S.C. §103(a) be withdrawn.

Withdrawn Dependent Claims 10-30, 40, 48-65, 78-80, 82, and 87

Dependent claims 10-30, 40, 48-65, 78-80, 82, and 87 were withdrawn from consideration pursuant to a species election.

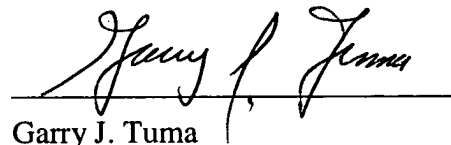
Applicant respectfully requests that these dependent claims be rejoined to the application in view of the allowability of their respective independent claim and submit that these claims are also allowable (i.e., dependent claims are allowable if their independent claim is allowable).

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Conclusion

The foregoing demonstrates that claims 1-9, 31-39, 41-47, 66-77, 81, and 83-86 are allowable. Therefore, subject to disposition of withdrawn claims 10-30, 40, 48-65, 78-80, 82, and 87, this application is in condition for allowance. Reconsideration, entry of the proposed amendment, and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Garry J. Tuma", is written over a horizontal line.

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